



**Board of Zoning Appeals**  
**Zoom Hybrid Meeting**  
**DRAFT Meeting Minutes**  
**April 19, 2023**  
**Approved: \_\_\_\_\_**

**Board Members in Present:** Chair Stephen Morreale, Robert Howarth, Andrew Hillman, Cheryl Thompson, David Tyler, Thomas Butler

**Board Members Absent:**

**Quorum Present:**

**Others Present:** Josh Stafford, Karl Klankowski, Marc Magnus-Sharpe, Earl Yonge, Carol Yonge, Penny McGuire

**Town Board Members:** Rich Goldman

**Town Staff:** Niels Tygesen, Mollie Duell

### **Proceedings**

Chair Morreale the meeting to order at 6:59 PM at Town Hall.

### **Approval of Past Meeting Minutes**

Approval of the January 18<sup>th</sup>, February 15<sup>th</sup>, and March 15<sup>th</sup> minutes were postponed.

### **Privilege of the Floor**

Penny McGuire, who lives close to the existing CARS facility, shared concerns with the proposed addition at the center. Discussion of the CARS proposal was postponed, and the applicant was not present. McGuire noted the effects on the neighborhood and described the disturbances they have endured through the years, including weekly ambulance noise, illegal roadside drug dealing operations, excessive traffic noise from employees at various hours, and other disruptive behavior from residents of the facility.

### **Old Business Items**

#### **Public Hearing: Klankowski Setback Variances, VAR2301-001**

The applicant has proposed to construct a tram approximately 33 feet from the intermittent stream and approximately 8 feet from the mean high-water elevation of Cayuga Lake. The property is located at 1375 Taughannock Blvd, Tax Map ID# 28.-1-5m in the LS zone. Ulysses Town Code (UTC) 212-47.E along with UTC 212-124.B require a minimum setback of 50 feet from the mean high-water elevation of Cayuga Lake, and UTC 212-47.I along with UTC 212-124.B require a 75 foot setback from the intermittent stream along the north property line. The Board previously met on February 15th to review the proposal, requested additional information be provided by the applicant, and postponed the hearing.

Josh Stafford of Finger Lakes Tram briefly recapped the proposal. He noted his company has already constructed about 10 trams in the area. The issue of classifying the stream located on Klankowski's property, which is about 25 feet from the proposed site, has been a recurring issue in coming to a decision regarding the variance. No agency has been able to determine the status of the stream. Stafford stated that the stream is not federally, state, or county recognized. Hillman asked Klankowski if a stream was currently visible on the property, and the applicant described it as a small dribble.

Chair Morreale asked if any public had responded to mail notifications; Tygesen stated that no correspondence had been made. No one at the meeting offered any comment.

Butler stated the location of the proposed site is clearly a violation to town zoning code, but considering the exceptionally steep grade, he expressed that the tram's benefits to the applicant would far outweigh the impact of the structure. Thompson agreed with Butler's statement, adding that safety considerations should outweigh appearance concerns when regarding the width of the structure. Hillman agreed that the steep grades of the area can be inaccessible, but reiterated concerns about the lack of clarity over the stream.

Klankowski noted that the stairs and shed are around 40 years old, as stated by the previous property owner, and he plans to remove the existing stairs if the variance is granted. Howarth asked for details on the bottom of the proposed structure, which Stafford described as a 4x4-foot wooden deck with hard-wired electricity that would not be affected by water. Discussion ensued about the structural details at bottom of the tram, possible alternatives, and the plans for an egress staircase in case of emergencies. The Board considered relocating the end of the tram further up the slope, near the existing shed. The Board further questioned the applicant about ground disturbance. Klankowski stated there were no intentions to remove any trees outside of the proposed project site, and the steel posts being put into the ground would be minimally invasive.

#### **Board of Zoning Appeals Resolution No. 2023-002**

**Whereas**, an appeal was submitted to the Board of Zoning Appeals (BZA) by Shawn Ritchie, FLX Tram, applicant and representative of Karl Klankowski, owner, for property located at 1375 Taughannock Boulevard (tax map # 28.-1-5), and which is approximately .67 acres in size; and

**Whereas**, the subject lot is zoned LS: Lakeshore zone and the proposed new construction is located within the Ro: Rock Outcrop steep slope overlay; and

**Whereas**, the appeal includes three separate area variance requests from the Town of Ulysses Zoning Code in order to construct a new 80-foot tram system within required setbacks; and

**Whereas**, the first area variance request is relief from 212-47.E and 212.167.A to permit the tram within the 40 foot minimum required front yard setback; and

**Whereas**, the second area variance request is relief from 212-47.I along with 212-124.B to permit the tram within the 75 foot minimum required setback from the lake; and

**Whereas**, the third area variance request is relief from 212-47 along with 212-47.I and 212-124.B to permit the tram within the 75 foot minimum required setback from the intermittent stream; and

**Whereas**, all requested variances are a Type II action under the Code, Rules, and Regulations of the State of New York Title 6, Part 617 (SEQR), Section 5.c.16 "granting of individual setback and lot line variance..." and requires no further review; and

**Whereas**, the action does not require 239 review, per the Inter-Governmental Agreement made with Tompkins County 24 November 2003; and

**Whereas**, notice of the public hearing was published in the Ithaca Journal on February 8, 2023, and on March 2, 2023, was posted on the Town's Public Legal Notice Board, was posted on the Town's webpage, and mailed to property owners within a 500-foot radius of the subject property; and

**Whereas**, by considering the criteria listed in the Consolidated Laws of New York Chapter 62, Article 16, Section 267-B.3.b, the BZA reviewed the record and weighed the benefits to the applicant against the detriment to the health, safety and welfare of the neighborhood if the variance is granted; and

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than area variances.
3. Whether the requested area variances are substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,**

Considering all of the statutory factors set forth above, the Board of Zoning Appeals finds the following:

1. The benefit to the applicant in the granting of the area variance to decrease the front yard setback will outweigh the detriment to the health, safety and welfare of the neighborhood. The height and steepness of the slope requires approximately 55 steps, which is quite demanding on the owner. The tram provides a large benefit to the applicant.
2. The granting of the area variance to decrease the front yard setback will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties. Other trams exist in the neighborhood; this tram is a fair distance away from the neighbor's property. The removal of the staircase will improve the appearance of the property. The agreed upon setback will be 12 feet from the Mean High-Water Line, rather than what was listed in the application, which was 8 feet.
3. The benefit sought by the applicant to decrease the front yard setback cannot be achieved by some method, feasible for the applicant to pursue other than an area variance. There is no other reasonable solution for the tram's location.
4. The requested area variance to decrease the front yard setback is substantial. The decrease of 40 feet to 12 feet is significant.
5. The proposed area variance to decrease the front yard setback will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing stairs are closer to the Mean High-Water Line than the proposed tram that will replace these stairs.
6. The alleged difficulty to decrease the front yard setback is self-created.

7. The benefit to the applicant in the granting of the area variance to decrease the setback from the lake will outweigh the detriment to the health, safety and welfare of the neighborhood. The height and steepness of the slope requires approximately 55 steps, which is quite demanding on the owner. The tram provides a large benefit to the applicant.
8. The granting of the area variance to decrease the setback from the lake will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties. Other trams exist in the neighborhood; this tram is a fair distance away from the neighbor's property. The removal of the staircase will improve the appearance of the property. The agreed upon setback will be 12 feet from the Mean High-Water Line, rather than what was listed in the application, which was 8 feet.
9. The benefit sought by the applicant to decrease the setback from the lake cannot be achieved by some method, feasible for the applicant to pursue other than an area variance. There is no other reasonable solution for the tram's location.
10. The requested area variance to decrease the setback from the lake is substantial. The decrease of 75 feet to 12 feet is significant.
11. The proposed area variance to decrease the setback from the lake will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing stairs are closer to the Mean High-Water Line than the proposed tram that will replace these stairs. The tram platform is minimal, approximately 4x4 feet, and the installation methods have been described as having minimal impact on the environment.
12. The alleged difficulty to decrease the setback from the lake is self-created, in that the applicant is choosing to install the tram.
13. The benefit to the applicant in the granting of the area variance to decrease the setback from the intermittent stream will outweigh the detriment to the health, safety and welfare of the neighborhood. The tram installation is approximately 10 feet further away from the stream than the existing stairs which will be removed, and the trees will be retained.
14. The granting of the area variance to decrease the setback from the intermittent stream will not create an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties. The tram will be farther from the neighboring property than the existing stairs which will be removed.
15. The benefit sought by the applicant to decrease the setback from the intermittent stream cannot be achieved by some method, feasible for the applicant to pursue other than an area variance. The applicant has described difficulties in placing the tram further to the south.
16. The requested area variance to decrease the setback from the intermittent stream is substantial. The tram will be 33 feet from the stream line as opposed to the required 75 feet setback. Although the setback is substantial, the drainage will not be toward the stream, which minimizes the importance of the setback. The tram will be further from the stream than the current stairs, which will be removed.

17. The proposed area variance to decrease setback from the intermittent stream will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The construction is farther away from the stream than the existing stairs, which will be removed.

18. The alleged difficulty to decrease the setback from the intermittent stream is self-created.

For the reasons set forth above, and upon the evidence, law and facts, the BZA hereby does grant the area variance to decrease the front yard setback from the east lot line from Cayuga Lake from 40 feet to 12 feet, does grant the area variance to decrease the setback from the lake from 75 feet to 12 feet, and does grant the area variance to decrease the setback from the intermittent stream from 75 feet to 33 feet for the proposed tram located at 1375 Taughannock Boulevard.

**Conditions of Approval:**

1. The existing wood stairs will be removed within 6 months of installation of the tram, without damage to the trees to the north of the stairs.
2. The setbacks from the lake line and from the front yard line has been agreed upon as 12 feet, rather than the 8 feet that was proposed in the application. The applicant has agreed to this.

**Motion:** Thompson made a motion to approve Resolution 2023-002; Tyler seconded the motion.

**Vote:** Tyler, aye; Howarth, aye; Hillman, aye; Thompson; aye; and Chair Morreale, aye.

**Motion carried.**

**New Business Items**

**Public Hearing: Magnus-Sharpe Area Variance, VAR2303-001**

The applicant and property owner, Marc and Sharon Magnus-Sharpe, applied for a minor subdivision to subdivide the existing 31.27 acre lot into two lots; one parcel approximately 12.52 acres and the second parcel approximately 18.75 acres. The property is located at 5221 Cold Springs Rd, Tax Map ID #21.-1-4.22, and is in the AR zone. Ulysses Town Code (UTC) 212-29.D requires a minimum 400 feet of lot width at the front lot line. The subject lot has frontage along Cold Springs Road in two separate areas; one along the northwest portion of the property is approximately 135' in length, the second along the northeast portion of the property is 350' in length. During the Planning Board's review of the sketch plat, members requested confirmation whether the lot is considered non-conforming or conforming from Legal and/or the BZA. Legal was consulted and it was suggested the BZA review the matter and make that determination.

Tygesen stated that he interpreted the lot as non-conforming. Discussion ensued on what actions would be taken if the lot is conforming or non-conforming. If conforming, a variance to decrease the frontage is required. If the BZA considers the lot to be non-conforming, the Planning Board will make the next determination on the proposal.

Earl Yonge, the previous long-time property owner, described the lot frontage requirements that existed when he owned the land. Yonge stated that the lot frontage requirements were at one time less than 200 feet, and that the non-conformity of the lots pre-date the current laws. Yonge continued to reflect on multiple changes in the frontage requirements through the years, and supported Magnus-Sharpe's

proposal. Marc Magnus-Sharpe explained that they have owned the property since 2014 and have not yet made any changes to the lot. The Magnus-Sharpes are currently trying to sell their home, but wish to keep some land for future building, thus applying for a subdivision.

Tygesen explained regulations pertaining to flag lots; flag lots are permitted in the AR zone and must be a minimum 50-feet in width for the 'pole' portion of the lot. The Board briefly discussed the intentions of adopting the 400 feet frontage requirements in past years; Howarth reiterated that this adjustment was made to protect agricultural land. Morreale expressed concerns with the subdivision allowing another construction on the lot. Tyler stated that he believed the lot to be legally non-conforming. Howarth noted that he could not see circumstances in which the lot would be legally conforming. Tygesen clarified "non-conforming" and "legally non-conforming" are synonymous terms.

**Motion:** Howarth made the motion to determine the lot non-conforming; Thompson seconded the motion.

**Vote:** Tyler aye; Thompson aye; Hillman aye; Howarth, aye, and Chair Morreale, aye.

**Motion Carried.**

Discussion ensued on terminology and decision-making protocols between the Board of Zoning Appeals, the Planning Board, and the Town Board. Chair Morreale stated that the Planning Board will determine the next steps for the proposed subdivision.

Board Members discussed the written format of variance resolutions and what changes could be made to improve the process, while considering legal requirements and restrictions.

#### **Town Board Liaison Report**

None

**Motion:** Howarth made a motion to adjourn the meeting.

**Vote:** Tyler aye; Thompson aye; Hillman, aye; Howarth, aye; and Chair Morreale, aye.

**Motion Carried.**

**ADJOURNED 9:23 PM**

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Mollie Duell  
Board of Zoning Appeals Secretary